

To: Counsel of Record in Texas Eastern Patent Cases

From: David Maland, U.S. District Clerk

Re: Filing Sealed Documents in Patent Cases

Date: March 17, 2006

At the direction of the Court, I am conveying the following instructions regarding the filing of sealed documents in patent cases. Henceforward, attorneys in patent cases must file sealed documents electronically instead of on CD-ROM disks. On March 8, 2006, Local Rule CV-5(a)(7) was amended by General Order 06-8, as follows:

(7) **Sealed Documents.** Documents requested or authorized to be filed under seal shall be filed in electronic form. In non-patent cases, unless otherwise directed by the clerk's office, such documents shall be submitted on a CD-ROM. In patent cases, parties should contact the clerk's office to obtain permission to file documents under seal using the court's CM/ECF system. ~~and~~ All sealed documents filed with the court must comply with the file size and other form requirements of Local Rules CV-5(a) and CV-7.

In order to file sealed patent documents electronically, please follow these steps:

1. If the court already has granted authorization to seal the document(s) in your case, include the written certification following your certificate of service per Local Rule CV-5(c), and proceed to step 4 below. [Note: a previously signed protective order constitutes authorization to file document(s) under seal that were designated as confidential by the protective order].
2. If you do not yet have leave of court to seal the document, you must first electronically file a motion requesting leave to seal. Do not attach the document(s) you are seeking to seal to the motion, as the motion will not be sealed. The motion for leave to seal should be electronically filed on or before the filing deadline for the document you are seeking to seal. After the judge grants your motion, include the Local Rule CV-5(c) certification in your document and proceed to electronic filing per step 4 below.
3. If a non-sealed filing contains an exhibit that must be sealed, the entire filing must be filed under seal, including the exhibits. Sealed exhibits should be filed as an attachment to the main document and are subject to the filing procedures specified in steps 4, 5 and 6.

4. Contact the clerk's office to request permission to file documents under seal for each patent case. The clerk's office will ask a few questions and then grant you access to "sealed events" and "sealed patent attachments" on the CM/ECF attorney menu (see step 5). Permission to file sealed patent documents is granted per case per attorney. If you file documents without obtaining permission, the documents will not be sealed.
5. Look for "sealed events" on the attorney menu. The docket entry text you create should be as descriptive as possible without containing confidential information. You should be able to identify the sealed document from your docket entry text. File your document(s) using "sealed events."
6. Documents larger than 5 megabytes ("MB") will need to be divided into multiple files per Local Rule CV-5(a)(4). Check file sizes before you begin filing. You can attach several documents to a single docket entry. The size of the PDF documents attached to the docket entry can be greater than 5 MB, but each individual document must be less than 5 MB. The CM/ECF system will "time out" if uploading the documents for a docket entry takes longer than one hour. If you cannot upload your main document and attachments within an hour, then file what you can before the entry "times out," then use the "sealed patent attachments" event on the CM/ECF attorney menu to file the remaining attachments.
7. Once filing is complete, CM/ECF will send a Notice of Electronic Filing ("NEF") to the presiding judge and counsel of record. The docket entry text will be visible on the electronic docket sheet, but the documents themselves will be sealed (not visible). You do not need to send a CD or a paper copy of the document(s) to the clerk's office.
8. Since the image of the filed electronic document is sealed to everyone except the presiding judge, you, as the filing attorney, are required to effect service of the sealed document(s) on other counsel of record. Receipt of the NEF by opposing counsel does not constitute service of the document, since it does not convey the image of the actual sealed document(s).
9. Do not use "sealed events" for any other purpose or type of case.